

§ 1437.8

7 CFR Ch. XIV (1-1-04 Edition)

determined by CCC, may be adjusted upward by the amount of production corresponding to the amount of the contract payment received.

(e) Producers must provide documentation of any salvage value received by or made available for the quantity of the crop or commodity that cannot be marketed or sold in any market, as determined by CCC and any value received by or made available for a secondary use of the crop or commodity.

(f) Producers requesting payment under this part must maintain records which substantiate gross revenue for the tax year preceding the crop year for which coverage is requested.

(g) Producers requesting a waiver of service fees as a limited resource producer must maintain records which substantiate annual gross income for the two tax years preceding the crop year for which coverage is requested.

§ 1437.8 Unit division.

Except as determined by CCC, a unit shall be all acreage of the eligible crop in the administrative county operated by the same producer(s). In cases where the owners of land are also producers, units shall be further divided based on ownership interest of the land.

§ 1437.9 Causes of loss.

(a) To be eligible for benefits under this part, crops must be damaged or prevented from being planted by drought, flood or other natural disasters and conditions related thereto. Not all named perils are eligible causes of loss for all crops. Eligible causes of loss include:

(1) Damaging weather occurring prior to or during harvest, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) Adverse natural occurrence occurring prior to or during harvest, such as earthquake, flood, or volcanic eruption; and

(3) A related condition, including but not limited to heat, insect infestation, or disease, which occurs as a result of an adverse natural occurrence or damaging weather occurring prior to or during harvest, that directly causes,

accelerates, or exacerbates the destruction or deterioration of an eligible crop, as determined by the Secretary.

(b) Ineligible causes of loss include but are not limited to:

(1) Factors or circumstances that are not the result of an eligible cause of loss affecting specific crop or commodity;

(2) The negligence or malfeasance of the producer;

(3) The failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed;

(4) Failure of the producer to follow good farming practices, as determined by CCC;

(5) Water contained or released by any governmental, public, or private dam or reservoir project, if an easement exists on the acreage affected for the containment or release of the water;

(6) Failure or breakdown of irrigation equipment or facilities; or

(7) Except for tree crops and perennials, inadequate irrigation resources at the beginning of the crop year;

(8) A loss of inventory (or yield as applicable) of aquaculture (including ornamental fish), floriculture or ornamental nursery stemming from drought or any failure to provide water, soil, or growing media to such crop for any reason;

(9) Any failure to provide a controlled environment or exercise good nursery practices where such controlled environment or practices are a condition of eligibility under this part.

§ 1437.10 Notice of loss and application for payment.

(a) At least one producer having a share in the unit must provide a notice of loss to CCC in the administrative FSA office for the unit, within:

(1) For prevented planting claims, 15 calendar days after the final planting date,

(2) For low yield claims and allowable value loss, the earlier of:

(i) 15 calendar days after the damaging weather or adverse natural occurrence, or date loss of the crop or commodity becomes apparent for low yield claims; and

(ii) 15 calendar days after the normal harvest date.

(b) For each crop for which a notice of loss is filed, producers must provide the following information:

(1) Crop by type or variety, as applicable;

(2) The cause of the crop damage;

(3) Date the loss occurred, as applicable;

(4) Date the damage or loss became apparent;

(5) The existence of a guaranteed payment through a contract or agreement for planted acreage as opposed to delivery of production, if one exists;

(6) Type of crop loss occurred, e.g. prevented planting or low yield;

(7) Practices employed to grow the crop, e.g. irrigated or non-irrigated;

(8) For prevented planting:

(i) Total acreage intended to be planted to the crop in the administrative county;

(ii) Total acreage planted by the producer to the crop in the administrative county;

(iii) Whether a purchase, delivery, or arrangement for purchase or delivery was made for seed, chemicals, fertilizer, etc.; and

(iv) What and when land preparation measures, e.g. cultivation, etc. were completed and indicate what has been done or will be done with the acreage, e.g. abandoned, replanted, etc.

(9) For low yield:

(i) Total acreage planted by the producer to the crop in the administrative county;

(ii) Total acreage of the crop in the administrative county affected;

(iii) What and when land preparation measures and practices, e.g. cultivation, planting, irrigated, etc. were completed before and after the loss; and

(iv) What will be done with the affected crop acreage, e.g. harvested, destroyed and replanted to a different crop, abandoned, etc.

(10) Any such other information requested by CCC to establish the loss.

(c) A notice of loss provided beyond the time specified in paragraph (a) of this section may be considered timely filed if, at the discretion of CCC, provided at such time to permit an authorized CCC representative the opportunity to:

(1) Verify the information on the notice of loss by inspection of the specific acreage or crop involved; and

(2) Determine, based on information obtained by inspection of the specific acreage or crop involved, that an eligible cause of loss, as opposed to other circumstance, caused the claimed damage or loss.

(d) Crop acreage that will not be harvested, i.e. acreage that is to be abandoned or destroyed or in the case of forage acreage intended to be mechanically harvested but grazed, must be left intact and producers must request, in the administrative FSA office for the acreage, a crop appraisal and release of crop acreage by a FCIC- or CCC-approved loss adjustor:

(1) Prior to destruction or abandonment of the crop acreage; or

(2) No later than the normal harvest date, as determined by CCC.

(e) Producers must apply for payments prior to the earlier of the:

(1) Date an application for coverage is filed for the crop for the subsequent crop year; or

(2) Application closing date for the crop for the subsequent crop year.

§ 1437.11 Average market price and payment factors.

(a) An average market price will be used to calculate assistance under this part and will be:

(1) A dollar value per the applicable unit of measure of the eligible crop;

(2) Determined on a harvested basis without the inclusion of transportation, storage, processing, marketing, or other post-harvest expenses, as determined by CCC;

(3) Comparable with established FCIC prices; and

(4) Determined, as practicable, for each intended use of a crop within a State for a crop year.

(b) For these purposes, where needed, an Animal-unit-days (AUD) value will be based on the national average price of corn and the daily requirement of 13.6 megacalories of net energy for maintenance of 1 animal unit.

(c) Payment factors will be used to calculate assistance for crops produced with significant and variable harvesting expenses that are not incurred because the crop acreage was prevented